

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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JUL 22 1999

CC Docket No. 98-147

In the Matter of )  
 )  
 )  
Deployment of Wireline Services Offering )  
Advanced Telecommunications Capability )

**REPLY COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

**INTRODUCTION**

The United States Telephone Association ("USTA") hereby files its reply comments in response to the Commission's *Further Notice of Proposed Rulemaking*. USTA is the principal trade association of the incumbent local exchange carrier ("ILEC") industry.

The Commission proposes to adopt spectrum unbundling regulations that are inconsistent with the goals and objectives of the Telecommunications Act of 1996 ("Act"). Mandated line-sharing should not be imposed by the Commission because it does not meet the necessary and impair standards in Section 251(d)(2) of the Act as interpreted by the Supreme Court's decision in *AT&T v. Iowa*. If adopted, mandatory line-sharing would create disincentives for incumbent local exchange carriers ("ILECs") to invest in, and innovate, new technologies. Similarly, competitive carriers are recognizing the financial benefits of creating facilities-based networks that provide voice and data communications over a single line, and do not require mandatory ILEC line-sharing to provide competitive voice and data services. Moreover, the technological and operational difficulties created by Commission mandated line-sharing, including degradation

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of voice-grade service, supports USTA's comments that line-sharing should not be imposed on ILECs.

## **I. MANDATED LINE-SHARING DOES NOT SERVE THE PUBLIC'S INTEREST**

USTA stated in its comments that spectrum compatibility issues are complex and recommended that the T1E1.4 emerging standard on spectrum compatibility will provide an appropriate basis for evaluation of spectrum compatibility.<sup>1</sup> Others support USTA's position.<sup>2</sup> USTA believes that the Commission should not interfere with the efforts of industry forums like T1E1.4 to provide the guidance on such critically important issues. appropriate to attempt to intervene in the committee's processes.<sup>3</sup> It has been suggested that the proper role for the Commission is to "set clear guidelines and timelines for such work."<sup>4</sup>

As proposed by USTA, the use of industry forums to advise the Commission on technical issues involving the deployment of innovative technologies are consistent with existing Commission policy. The Technological Advisory Council ("TAC") was established by the Commission to provide "a means by which a diverse array of recognized technical experts from a variety of interests ... can provide advice to the FCC on innovation in the communications industry."<sup>5</sup> Indeed, TAC is charged with addressing such issues as "the telecommunications common carrier network interconnection scenarios that are likely to develop, including the technical aspects of cross network (*i.e.*, end-to-end) interconnection, quality of service, network

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<sup>1</sup> USTA Comments at 8-13.

<sup>2</sup> *See, e.g.*, Nortel Comments at 5-6.

<sup>3</sup> USTA Comments at 9-11.

<sup>4</sup> *See* Nortel Comments at 5.

<sup>5</sup> 64 Fed. Reg. 32496 (June 17, 1999).

management, reliability, and operations issues, as well as the deployment of new technologies such as dense wave division multiplexing and high speed packet/cell switching.”<sup>6</sup> Moreover, TAC “may also consider such other issues as come before the Council ....”<sup>7</sup>

The use of industry forums to resolve complex issues is also consistent with the proposed SBC and Ameritech merger agreement. Paragraph 33 of the agreement provides that SBC/Ameritech will provision line sharing as described by the Commission in this proceeding when technically feasible and based upon industry standards.<sup>8</sup>

As USTA has made clear, and the initial comments confirm, spectrum unbundling and line-sharing of ILEC local loops by CLECs present unique technical and operational problems and would lead to a stifling of innovation as AT&T noted in its comments.<sup>9</sup> In addition, spectrum unbundling is not required for competition to develop in broadband advanced services markets.<sup>10</sup> On July 21, 1999, Covad announced that it had reached agreement with GST, another CLEC, to develop integrated voice over digital subscriber line services for small businesses and consumers.<sup>11</sup> According to a Covad press release, this agreement is the “first in

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<sup>6</sup> 64 Fed. Reg. 32496 (June 17, 1999).

<sup>7</sup> *Id.*; see also USTA Comments at 27-29 (“USTA believes that the Commission could obtain valuable insights from the TAC ....”).

<sup>8</sup> *Proposed Conditions for FCC Order Approving SBC/Ameritech Merger* at 19, ¶33, CC Docket No. 98-141, released July 1, 1999.

<sup>9</sup> AT&T Comments at 16-19.

<sup>10</sup> USTA Comments at 2-7.

<sup>11</sup> Fusco, *Covad Adds Partners to Deliver Voice over DSL Services*, InternetNews.com, July 21, 1999 at [www.internetnews.com/isp-news](http://www.internetnews.com/isp-news). The article also noted that Covad had signed an agreement with Nokia valued at \$100 million in which “Nokia will supply Covad with the equipment ... to deploy up to 750,000 new DSL lines in the U.S. Currently, Covad DSL services are available in 37 metropolitan markets nationwide.”

the industry in the emerging market for integrated voice and data DSL services.”<sup>12</sup> As Covad stated, this agreement will permit “nimble voice CLECs such as GST and Covad to break the local phone service monopoly for voice services” as they compete to provide “true competition and choice to the \$45 billion dollar small business voice communications market.”<sup>13</sup> Moreover, Covad states it completed more than 200,000 phone calls over DSL lines using its ATM transport network.<sup>14</sup> Based upon this agreement, “Covad envisions a manageable solution for small businesses that will enable them to apportion up to 16 voice lines and data through one DSL connection. The technical trials proved the feasibility of this plan and demonstrated the high quality of voice over DSL via ATM.”<sup>15</sup> In remarks attributed to Joe Basile, president and chief executive of GST, GST believes the agreement with Covad will produce business opportunities to bypass the ILEC networks:

By expanding our alliance with Covad, GST will be able to offer its extensive voice services over the same lines deployed for Internet access. Integrated DSL services are a cost-effective alternative for small businesses to take advantage of new network capabilities which can help make them more competitive. DSL gives GST a broader geographic reach within our major metropolitan markets, and is another way for us to ***bypass the incumbent local exchange carriers ..., allowing us to provide faster provisioning intervals, more responsive customer service, and lower prices than those available when working through an ILEC connection.***<sup>16</sup>

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<sup>12</sup> Covad Announces First Alliance to Deliver Voice over DSL Services to Small Business, July 21, 1999 at [www.covad.com/about/press](http://www.covad.com/about/press).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

USTA applauds the competitiveness of CLECs. Facilities-based deployment of advanced, broadband, telecommunications services promotes competition and innovation, and is cost-effective for the CLEC.<sup>17</sup> As USTA stated in its comments, *Given the feasibility of unbundling the entire loop for use by the CLEC, and the given desirability of increasing competition in the local telephone market, the consumer benefits of mandatory spectrum unbundling are non-existent.*<sup>18</sup> As distribution channels for voice data and Internet services continue to converge, the marketplace, not government regulators should determine winners and losers.<sup>19</sup> As the Commission's Office of Plans and Policy has explained *the Commission must ensure that all players in the communications marketplace, including owners and users of telephone networks ..., have a fair opportunity to compete. That goal should ... be accomplished without government regulation, by permitting market forces to work and shape the competitive landscape.*<sup>20</sup>

Line-sharing is simply not necessary. The Commission should reconsider its proposals based upon the explosive growth in competition and innovation reflected in the Covad/GST agreement and the intent by CLECs to use line-sharing to provide voice services which the Commission's proposal for line-sharing does not contemplate.

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<sup>17</sup> USTA Comments at 6-8.

<sup>18</sup> *Id.* at 6.

<sup>19</sup> See Jason Oxman's *The FCC and the Unregulation of the Internet* at 24 ("The principal challenge for the future comes from the convergence of technologies, and the growing use of the Internet protocol for the delivery of numerous services traditional offered over legacy technologies."), Office of Plans and Policy, Federal Communications Commission, OPP Working Paper No. 31 at [www.fcc.gov/opp/workingp.html](http://www.fcc.gov/opp/workingp.html), released July 19, 1999.

<sup>20</sup> *Id.* at 25.

## II. UNBUNDLING OF FREQUENCIES IN THE LOOP SHOULD NOT BE REQUIRED

The Commission has tentatively concluded that “incumbent LECs must provide requesting carriers with access to the transmission frequencies above that used for analog voice service on any lines that LECs use to provide exchange service when the LEC itself provides both exchange and advanced service over a single line.”<sup>21</sup> According to the Commission “in the absence of line sharing, the competing carrier effectively may be forced to provide both voice and data over the local loop it leases from the incumbent.”<sup>22</sup> These statements support the impression that the Commission equates access to the “high-frequency portion of the loop” with line sharing.

USTA’s stated in its comments: “The entity that has access to the copper loop and provides the DSLAM has use of the loop and must assume the responsibility for all service provided over the loop. This responsibility includes interference generated and received by the loop.”<sup>23</sup>

According to the CLECs, they demand the right to unfettered access and control of the entire loop. In its comments, ALTS states that the Commission’s policy “should not limit or revise the existing right of any CLEC to purchase a full unbundled loop and to retain exclusive use of that loop for whatever services it offers to its customers.”<sup>24</sup> Covad’s states: “The only technical limitations that the Commission need consider are: (1) that the requesting CLEC has

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<sup>21</sup> *Further Notice of Proposed Rulemaking* at 48, ¶99.

<sup>22</sup> *Id.*

<sup>23</sup> USTA Comments at 21.

<sup>24</sup> ALTS Comments at 3.

collocated a DSLAM at the relevant ILEC central office; and (2) that the DSL technology deployed by the CLEC over shared lines be designed not to interfere with the below 4 kHz analog voice signal.”<sup>25</sup>

Under the scenario proposed by the CLECs, they install the DSLAM on an unbundled loop subject to a determination that the frequency characteristics of the DSLAM would not interfere with other services on the same cable. The CLEC has full responsibility to determine the services provided at the customer end of the loop. It could obtain Internet service from one provider and it might provide voice service itself or through another provider.

USTA opposes a condition in which the provider of the DSLAM (and therefore is responsible for the services delivered to the customer served by the loop to which the DSLAM is applied) must, for example, provide the voice service itself and be required to permit another service provider to deliver a high speed service to the customer using a DSLAM owned by the carrier providing the voice service. AT&T describes the operational and technical problems with requiring line-sharing. According to AT&T “mandatory allocation of frequencies within the same loop could raise significant policy and operational issues, stifle innovative uses of loop bandwidth, and produce no clear offsetting consumer benefits.”<sup>26</sup>

According to Sprint, “Clearly, for those customers [those wanting to continue to purchase POTS from their ILEC and data services from a competing carrier], the competing data carrier would be at a decided disadvantage if it had to buy an entire loop for its data service when the ILEC could use a single loop for both voice and data services.”<sup>27</sup> Sprint’s concerns are

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<sup>25</sup> Covad Comments at 6-7.

<sup>26</sup> AT&T Comments at 17.

<sup>27</sup> Sprint Comments at 9.

misplaced. A customer selects a carrier to provide telecommunications services. The provider of telecommunications services desired by the customer must then make the business decision of how best to serve the telecommunications needs of the customer. In such cases as described by Sprint, the CLEC would have to make a decision as to which carrier provision scenario is most important to its operational needs when serving the customer. Sprint's assertion that "the competing data carrier would be at a decided disadvantage if it had to buy an entire loop for its data service"<sup>28</sup> is simply incorrect.<sup>29</sup> Sprint, or any CLEC, would be required to obtain the loop, but it would be able to deliver multiple services over that loop. Under the circumstances, Sprint and other competitive providers of telecommunications services are in no better or worse position than the ILEC who faces the same business decisions on how best to serve its customer. What is clear is that Sprint recognizes that there are significant operational and technical issues that must be addressed before line-sharing could be deployed.<sup>30</sup>

ALTS also makes a statement that is difficult to understand. According to ALTS, "If only ILECs are permitted to provide DSL via line sharing, CLECs will be forced to buy a full loop UNE and will be priced out of the residential DSL market."<sup>31</sup> A CLEC typically purchases a loop as a UNE from the ILEC. The CLEC is also a provider of voice service as its primary business. If the CLEC is to obtain a loop as a UNE, it can apply a DSLAM and other

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<sup>28</sup> Sprint Comments at 9.

<sup>29</sup> If the CLEC did not use xDSL or did not utilize the full capabilities of DSL technology, the need to obtain the entire loop for just the high frequency portion of the service would be a choice of that service provider, not a requirement imposed on it. *See* Bell Atlantic Comments at 10.

<sup>30</sup> Sprint Comments at 8-12.

<sup>31</sup> ALTS Comments at 7.



conditioning it needs in order to establish the necessary technical capability to provide high-speed data and voice services. USTA is unaware of any limitations on what the CLEC is permitted to do with the loop in providing services to its customers.

### **III. TECHNICAL AND OPERATIONAL ISSUES PRECLUDE LINE-SHARING**

Many commenting parties have addressed the considerable problems associated with line sharing.<sup>32</sup> USTA has identified a number of operational and technical problems that impede deployment of spectrum unbundling/line-sharing.<sup>33</sup> The Commission, however, has identified only a small subset of problems in the *Further Notice of Proposed Rulemaking*. The Commission must not underestimate the difficulties and costs that would be required to resolve spectrum unbundling issues. These difficulties and expenses should provide a clear message that a requirement to enable line-sharing in the network will add yet another unnecessary layer of expense and complexity to the existing public switched network - a network very much in transition. Such complex and costly requirements are unsupportable and provide no clear benefit to consumers if implementation were technical and operationally feasible. USTA strongly recommends that the Commission conclude that line-sharing is a complex, costly and unnecessary requirement that should not be mandated.

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<sup>32</sup> See Bell Atlantic Comments at 10-13; GTE Comments at 29-31; Ameritech Comments at 10-12; BellSouth Comments at 18-24; SBC Comments at 20-24; AT&T Comments at 17-19; Sprint Comments at 9-13.

<sup>33</sup> USTA comments at 26-27.

## CONCLUSION

There are no plausible reasons for mandating line-sharing. Conversely, there are innumerable reasons why the Commission should not mandate line-sharing. CLECs do not need line-sharing to provide competitive voice and data services. The Covad/GST agreement announced on July 21 is more evidence that line-sharing is unnecessary. CLECs are making strategic, market-driven, business decisions to bypass ILEC networks to serve their customers. The operational and technical difficulties described by USTA and other parties in implementing the Commission's line-sharing proposals are insurmountable. The Commission must recognize that precipitous regulatory proposals like mandating line-sharing are not in the public's interest.

Respectfully submitted,

**UNITED STATES TELEPHONE ASSOCIATION**

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July 22, 1999

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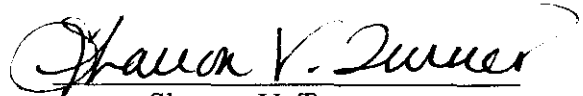
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